

REMARKS

Claims 1-12, 17, and 19, as amended, and new claims 23-30 appear in this application for the Examiner's review and consideration. Specifically, claims 17 and 19 have been written in independent form, while method claims 13-16, 18 and 20-22 have been canceled without prejudice to applicants' rights to file one or more divisional applications for the subject matter of those claims. New dependent claims 23-30 have been added, these claims are supported by original claims 2, 5, and 8-11 so that there is no issue of new matter.

In response to the restriction requirement, applicants elect, with traverse, the invention of Group I, product claims 1-12, for examination in this application. For the reasons that follow, it is believed that all current claims, namely 1-12, 17, 19, and 23-30, should be examined together in this application.

The basis for the Examiner's rejection is that the product can be made by a different process so that the claim groupings are distinct. Applicants respectfully request reconsideration of this statement. Product claims 17 and 19 are product-by-process claims, and these are directed to products of the type of claim 1 but made by certain preferred processes. Restriction is not proper as to claims 17 and 19 and the Group I claims by the reasoning in the office action because the patentability of a product-by-process claim is based on the features of the product. In reviewing any art that is directed to such products, the process of making such products should also be disclosed. Thus, the current claims are sufficiently related so that it should not pose an additional burden on the Examiner to review the patentability of the product-by-process claims. Thus, claims 17 and 19 should be examined with the Group I product claims. Furthermore, claims 23-30 should be examined with the Group I claims due to their dependency on claim 17 or claim 19.

In response to election of species requirement, applicants elect, with traverse, Species B, the species recited in claim 10 for prosecution at this time.

It is respectfully submitted that all Species should be examined together at this time. Whether the spray dried product is used as a perfuming or flavoring agent, it still includes a carrier comprising at least one wall-forming carbohydrate material of agar agar in an amount of from 1 to 30% by weight relative to the dried weight of the composition. Accordingly, to properly evaluate the patentability of the species of claim 10, the Examiner should conduct a search for this material regardless of the type of composition in which it is incorporated. As there should be no additional burden on the Examiner to review both embodiments, claims 9 and 10 should be examined together.

Accordingly, claims 1-12, 17, 19 and 23-30 should be examined together in the application at this time.

Any questions regarding this matter may be directed to the undersigned.

Respectfully submitted,

Date

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